

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL BENEFIELD, et al.,

Plaintiffs,

No. C 14-1459 PJH

v.

**ORDER DISMISSING DEFENDANT
BRYCO FUNDING, INC.**

BRYCO FUNDING, INC., et al.,

Defendants.

_____ /

Plaintiffs Daniel Benefield and Deborah A. Benefield filed this action on April 22, 2013, in Alameda County Superior Court, alleging thirteen causes of action, in connection with a loan they obtained from defendant Bryco Funding, Inc. ("Bryco") in 2006, secured by a promissory note and deed of trust on property located in Oakland, California. On March 24, 2014, JPMorgan Chase Bank, N.A., the sole defendant that had been served as of that date, removed the case to this court.

The background facts are as stated in the court's June 10, 2014 order granting the motion to dismiss filed by defendants JPMorgan Chase Bank, N.A. f/k/a Washington Mutual Bank; JP Morgan Bank, N.A., successor-in-interest to Washington Mutual Bank; Chase Home Finance, LLC; Mortgage Electronic Registration System; and Deutsche Bank National Trust Company, as Trustee for Long Beach Mortgage Loan Trust.

At the June 4, 2014, hearing on the motion to dismiss, the court noted that Bryco had not entered an appearance, and asked plaintiffs whether Bryco had been served with the summons and complaint. Plaintiffs, who are proceeding in propria persona, responded that Bryco had been served. The court directed plaintiffs to file a proof of service no later than June 11, 2014, showing service of the summons and complaint on Bryco.

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In the June 10, 2014 order, the court dismissed all thirteen causes of action, giving leave to amend as to the first, third, fourth, sixth, seventh, eighth, tenth, eleventh, and twelfth causes of action. The dismissal of the second, fifth, ninth, and thirteenth causes of action was with prejudice. In addition, the court reiterated that plaintiffs had until June 11, 2014 to file a proof of service as to Bryco, and stated that if no proof of service was filed, Bryco would be dismissed from the case.

Plaintiffs have not filed a proof of service showing service of the summons and complaint on Bryco. Accordingly, defendant Bryco Funding, Inc., is hereby DISMISSED from the case pursuant to Federal Rule of Civil Procedure 4(m).

IT IS SO ORDERED.

Dated: August 13, 2014



PHYLLIS J. HAMILTON
United States District Judge